

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEVIN TUBBS, JOSEPH DIBEE,  
JOSEPHINE S. OVERAKER, JUSTIN  
SOLONDZ, and BRIANA WATERS,

Defendants.

Case No. CR05-5828FDB

ORDER GRANTING IN PART  
DEFENDANT WATERS' MOTION  
RE SERVICE OF SUBPOENAS ON  
FBI AGENTS

Defendant Briana Waters moves that the United States be ordered to serve subpoenas on six FBI agents: Ted Halla and Athony Torres (Seattle Office), Paul Caldwell Jr. And John Ferreira (Portland Office), and Sean Bradley and Thomas Anzelmo (Sacramento Office). Defendants contends that because these witnesses participated in various proffer sessions with key witnesses in this case, each of these agents is needed as a potential defense witness for impeachment purposes if they contradict any statements that they made about this case. Because Waters' counsel is appointed under the CJA, she is entitled to have the Court pay the costs and fees for service and the attendance of these witnesses.


The Government indicates that Greg Jennings, who serves as FBI counsel in Seattle, has

1 accepted service of the four subpoenas directed at active FBI agents: Ted Halla, Anthony Torres,  
2 Paul Caldwell, and Thomas Anzelmo. Thus, the motion is moot as to these witnesses. Mr. Jennings  
3 is unable to accept service for John Ferreira, who is retired, and for Shawn Bradley, who is on active  
4 duty with the United States Marine Corps and is serving in Iraq until August 2008. The United  
5 States has no objection to service of the subpoenas upon Agents Bradley and Ferreira,, although the  
6 Government indicates that the U.S. Marshal's service believes it will be unlikely that they could  
7 locate Agent Bradley in Iraq and that the subpoena would be returned unserved. Moreover, the  
8 Government states that as Agent Anzelmo was present at the same meetings as Agent Bradley, he  
9 would be able to serve Waters' purpose as a potential impeachment witness.

10 Waters' motion is moot as to the four active FBI agents. The motion is granted as to service  
11 by the U.S. Marshal upon retired agent John Ferreira. As to Agent Bradley who is stationed in Iraq,  
12 Defendant Waters must make a greater showing that Bradley's testimony is necessary and in the  
13 interest of justice pursuant to 28 U.S.C. § 1783 governing the subpoena of a person in a foreign  
14 country.

15 NOW, THEREFORE, IT IS ORDERED: Defendant Waters' Motion To Order The United  
16 States Marshals To Serve Subpoenas on FBI Agents [Dkt. # 173] is found to be MOOT in part as to  
17 the four active FBI agents, and GRANTED as to retired agent John Ferreira. As to Agent Bradley,  
18 serving in Iraq, the motion is DENIED, Defendant being required to make a greater showing of need  
19 for his testimony.

20 DATED this 6<sup>th</sup> day of September, 2007.

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23 FRANKLIN D. BURGESS  
24 UNITED STATES DISTRICT JUDGE  
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